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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,877	05/30/2001	Jesse Ambrose	SIEB019/01US	4487
25096	7590	12/14/2005	EXAMINER	
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			QUELER, ADAM M	
		ART UNIT	PAPER NUMBER	
			2178	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/866,877	AMBROSE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Adam M. Queler	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 September 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

1. This action is responsive to communications: Amendment and RCE filed 09/14/2005.
2. In the amendment, claims 1-20 are pending. Claims 1, 9 and 15 are independent claims.

### *Continued Examination Under 37 CFR 1.114*

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/14/2005 has been entered.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.**

The specification in general is more of a sales brochure than an enabling disclosure. While presenting many advantages of the invention, it does not enable one of ordinary skill to make or use the invention without having to resort to undue experimentation. One of the primary reasons for this is that many of the terms used in the specification are abstract terms with no accepted meaning to one of ordinary skill in the art, and are either described in vague generalities or in terms of each other, or in terms of technologies not disclosed or known to a skilled artisan.

The best of example of this is the business objects and components. These clearly have a special meaning to the Applicant, as they are referenced in the Appendix as "Siebel Business Objects." While Applicant is permitted to be his own lexicographer, Applicant must actually define these terms. All through the specification they are described in general statements about their advantages like a sales brochure, rather than a disclosure to the public about how to make and use then invention. For example, the last paragraph of p. 10, p. 17, lines 4-11, p. 20, line 8-10. Page 33, lines, 18-23, show best that this is a proprietary term that has no common meaning. Claim 3 et al. recites a similarly vague "run-time engine" that operates on these objects. It is not seen from the specification how these object which are allegedly part of the application/server, are operated on. Claim 5 recites adhering to "business rules" which are not described and it is not clear what they can and cannot entail.

*Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claim 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

The term "thin client" in claim 1, for example is a relative term which renders the claim indefinite. The term "thin client" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claims 1, 9, and 15 recite the limitation "said application server". There is insufficient antecedent basis for this limitation in the claim. Although there is an "application residing on a server" recited earlier and it appears to be the intended antecedent, using the two terms interchange serves to add ambiguity to the scope of the claim. This primarily due to the fact that an "application residing on a server" describes a server, and "server application" describes an application.

The term "business objects and business components" is considered to be indefinite because one of ordinary skill in the art at the time of the invention would not be reasonably apprised of what was, or was not a business object. As shown in the Gupta reference (which as a caveat is not at the time of the invention), even at the current state of the art, there are varying definitions of the term, and at best, using Gupta's definition, it recites merely an intended use. For examining purposes only, the term will treated as any logic of the application. Of similar vagueness are the limitations of claim 3, 4 and their equivalents.

Claim 5 recites adhering to "business rules" which are not described and it is not clear what they can and cannot entail.

***Claim Rejections - 35 USC § 101***

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. **Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

Claims 1-8 recite a system. The term "system" does not carry any implicit meaning of a tangible piece of hardware. Also, none of the elements the claim are necessarily implemented in

hardware. Therefore, the claims are at best directed to an arrangement of software and are rejected as not being tangible. An arrangement of software without a tangible embodiment cannot achieve any functionality and therefore cannot achieve a useful, tangible and concrete result.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**10. Claims 1-4, 6-11, and 13-17 rejected under 35 U.S.C. 102(e) as being anticipated by Bayeh et al. (US006633914B1).**

**Regarding independent claim(s) 1, 9, 15,** Bayeh teaches a thin client on a server (col. 1, ll. 30-32). Bayeh teaches an object manager (web server) and an application interposed between the client and server ((col. 1, ll. 52-55)). Bayeh teaches the object manager handles requests from multiple clients by mainlining a status of each client in a corresponding thread (col. 1, ll. 54-62). An application inherently contains objects and components.

**Regarding dependent claim(s) 2,** Bayeh teaches a database application, as Bayeh's server connects to a data repository (col. 4, ll. 27-32).

**Regarding dependent claim(s) 3, 4, 10, 11** Bayeh teaches the application is run and therefore is operated on (col. 1, ll. 42-50).

**Regarding dependent claim(s) 6, 13,** Bayeh teaches an application executing on the client (col. 1, ll. 30-32).

**Regarding dependent claim(s) 7, 14,** Bayeh teaches a user interface executing on the client (col. 1, ll. 30-32).

**Regarding dependent claim(s) 8,** Bayeh teaches a session-based network protocol, HTTP (col. 1, ll. 20-23).

**Regarding independent claim(s) 16,** Bayeh teaches a multi-tasking, multi-thread process (col. 1, ll. 52-62).

**Regarding dependent claim(s) 17,** Bayeh teaches a persistent connection (col. 1, ll. 60-62).

*Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayeh as applied to claims 3 and 9 above, and further in view of Hernandez, Database Design for Mere Mortals.**

**Regarding dependent claim(s) 5, 12,** Bayeh teaches a way of managing web server requests, including databases. Bayeh does not explicitly disclose business rules. Bayeh is a general improvement on server request handling, and does not teach or aim to teach a particular application. As this is Bayeh's teaching, one would turn to the prior art for a particular application implementation. Hernandez discloses business rules (whole document). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Hernandez and Bayeh, having business rules for a database was well-known and important part of basic database design, shown at least by the fact that Hernandez is an introductory database

book. In addition, they were desirable to have to ensure that the data is semantically correct (p.1, para. 40.).

**13. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayeh as applied to claim 15 above, and further in view of Applicant's Admitted Prior Art.**

**Regarding dependent claim(s) 18-20,** Bayeh teaches a way of managing web server requests.

Bayeh does not explicitly disclose a particular server application. Bayeh is a general improvement on server request handling, and does not teach or aim to teach a particular application. As this is Bayeh's teaching, one would turn to the prior art for a particular application implementation. Applicant admits that the types of application were well-known in the art at the time of the invention (pp. 5-6.) It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Applicant's Admitted Prior Art with the improvement of Bayeh, as Bayeh was an improvement for all types of server request applications.

***Response to Arguments***

**14.** Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

**15.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

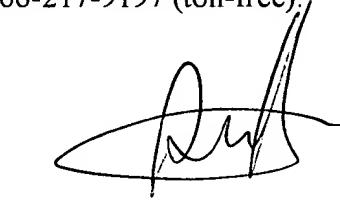
**16.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam M. Queler whose telephone number is (571) 272-4140. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AQ



**STEPHEN HONG  
SUPERVISORY PATENT EXAMINER**